

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EDDIE HOOD, #593254

§

VS.

§

CIVIL ACTION NO. 6:07cv357

DIRECTOR, TDCJ-CID

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus concerning a prison disciplinary proceeding should be denied. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit.

A fundamental tenet of federal habeas corpus law is that relief is unavailable unless a person has been deprived of a right secured by the United States Constitution or the laws of the United States. *Malchi v. Thaler*, 211 F.3d 953, 957 (5th Cir. 2000). Prisoners will not have a basis for federal habeas corpus relief regarding a prison disciplinary proceeding unless there is a liberty interest protected by the Due Process Clause. *Id.* The Fifth Circuit has made it clear that a prisoner may not obtain relief unless he or she lost good time and is eligible for release on mandatory supervision. *Id.* Relief is available only in such circumstances because the loss of good time effects a prisoner's release date. The Petitioner acknowledged that he did not lose any good time in the disciplinary case. The punishment he received simply did not concern a liberty interest protected

by the Constitution. Federal habeas corpus relief is unavailable. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 22nd day of August, 2007.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE